

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LEON F. HENRY,
Plaintiff,
vs
9:03-CV-07

LIEUTENANT MACK; C.O. BROEKER, Correction
Officer; and C.O. BREEZE, Correction Officer,

Defendants.

APPEARANCES: OF COUNSEL:

LEON F. HENRY
Plaintiff, Pro Se
11456-052
FCI Elkton
Box 10
Lisbon, OH 44423

FIX, SPINDELMAN LAW FIRM
Attorneys for Defendants
The Galleries of Syracuse
Suite 604
441 South Salina Street
Syracuse, NY 13201-1218

DAVID N. HURD
United States District Judge

KENNETH M. ALWEIS, ESQ.
RYAN L. ABEL, ESQ.

DECISION and ORDER

Plaintiff, Leon F. Henry, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated July 28, 2005, the Honorable George H. Lowe, United States Magistrate Judge, recommended that the defendants' cross-motion for judgment on the pleadings be denied; and that plaintiff's complaint be sua sponte dismissed without prejudice. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1).

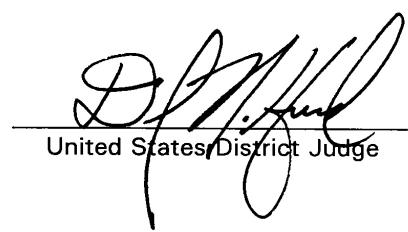
Accordingly, it is

ORDERED that

1. The defendants' cross-motion for judgment on the pleadings is DENIED;
2. The complaint is sua sponte DISMISSED without prejudice.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.



United States District Judge

Dated: November 8, 2005
Utica, New York.